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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,099	04/11/2001	Gregory J. Speicher	935-012	1374
32376	7590	11/17/2008	EXAMINER	
LAWRENCE R. YOST			PHUNKULH, BOB A	
2001 Ross Avenue			ART UNIT	PAPER NUMBER
Suite 3000			2419	
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			11/17/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/833,099	<b>Applicant(s)</b> SPEICHER, GREGORY J.	
	<b>Examiner</b> BOB A. PHUNKULH	<b>Art Unit</b> 2419	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on \_\_\_\_.
- 2a)  This action is **FINAL**.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 3 and 5-26 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_ is/are allowed.
- 6)  Claim(s) 3 and 5-26 is/are rejected.
- 7)  Claim(s) \_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \*    c)  None of:
1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Request for Continued Examination*

The request filed on 9/15/2008 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/833,099 is acceptable and a RCE has been established. An action on the RCE follows.

This communication is in response to applicant's 09/15/2008 request for pre-appeal conference in the application of **SPEICHER** for "**INTERNET-AUDIOTEXT ELECTRONIC ADVERTISING SYSTEM WITH PSYCHOGRAPHIC PROFILING AND MATCHING**" filed 04/11/2001. The amendment/response to the claims have been entered. No claims have been canceled. No claims have been added. Claims 3-26 are now pending.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over *LUPIEN* et al. (US 5,689,652), hereinafter *LUPIEN*, in view of *CHATER* et al. (US 5,598,351), hereinafter *CHATER*.

Regarding claims 3, 9, *LUPIEN* discloses a method for a computer comprising the steps of:

administering to a first user a first test via the Internet (see col. 5 lines 36-45) where the first test (as shown in figure 4, there are many visual images i.e. 50-59, 40-46, etc.);

storing the first user's preferences and generating a profile of the first user according to the visual preferences of the first user (storing the buyer profile in the data base 4, see figure 1);

administering to a second user a second test via the Internet, and receiving second user's preferences in response to the second test (as shown in figure 4, there are many visual images i.e. 50-59, 40-46, etc. for the seller);

generating a profile of the second user according to the results of the second test (storing the seller profile in the data base 4, see figure 1);

comparing the profile of the first user to the profile of the second user; and matching the first user with the second user according to visual preferences, whenever the profile of the first user matches the profile of the second user (see col. 4 lines 10-26)

*LUPIEN* fails to explicitly disclose presenting a set of at least two visual images or video to the first user and receiving the first user's preference based on the visual image or video and presenting a set of at least two visual images or video to the second user and receiving the second user's preference based on the visual image or video.

*CHATER*, on the other hand, discloses providing visual images/ video images to the user in on-line dating communication system (see col. 1 lines 24-46).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made including the teaching of *CHATER* especially providing the video images in the user's terminal in the system taught by *LUPIEN* in order to provides potential user's i.e. employer or the opposite sex in on-line dating service with ability to better screen potential employee or mate.

Regarding claim 10, *LUPIEN* discloses the matching occurs with a partial match of the first and second's user's preferences (degree of mutual satisfaction, see col. 4 lines 17-26).

Regarding claims 4-8, *LUPIEN-CHATER* fails to disclose that the notifying/contacting the first user via email or telephone.

However, it would have been obvious to one having ordinary skill in the art at the time of invention was made to notify the first user via e-mail or telephone (widely available and used means of communication method) in order to provides information to the buyer/seller with whether the order has been executed.

Regarding claims 11, 17, *LUPIEN* discloses a method for a computer comprising the steps of:

administering to a first user a first test via the Internet (see col. 5 lines 36-45) where the first test (as shown in figure 4, there are many visual images i.e. 50-59, 40-46, etc.);

storing the first user's preferences and generating a profile of the first user according to the visual preferences of the first user (storing the buyer profile in the data base 4, see figure 1);

administering to a second user a second test via the Internet (see figure 4 for seller);

generating a profile of the second user according to the results of the second test (storing the seller profile in the data base 4, see figure 1);

comparing the profile of the first user to the profile of the second user; and matching the first user with the second user according to visual preferences, whenever the profile of the first user matches the profile of the second user (see col. 4 lines 10-26)

*LUPIEN* fails to explicitly disclose presenting a set of at least two visual images or video to the first user and receiving the first user's preference based on the visual image or video.

*CHATER*, on the other hand, discloses providing visual images/ video images to the user in on-line dating communication system (see col. 1 lines 24-46).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made including the teaching of *CHATER* especially providing the video images in the user's terminal in the system taught by *LUPIEN* in order to

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provides potential user's i.e. employer or the opposite sex in on-line dating service with ability to better screen potential employee or mate.

Regarding claim 18, *LUPIEN* discloses the matching occurs with a partial match of the first and second's user's preferences (degree of mutual satisfaction, see col. 4 lines 17-26).

Regarding claims 12-16, *LUPIEN-CHATER* fails to disclose that the notifying/contacting the first user via email or telephone.

However, it would have been obvious to one having ordinary skill in the art at the time of invention was made to notify the first user via e-mail or telephone (widely available and used) in order to provides information to the buyer/seller with whether the order has been executed.

Regarding claims 19, 25, *LUPIEN* discloses a method for a computer comprising the steps of:

administering to a first user a first test via the Internet (see col. 5 lines 36-45) where the first test (as shown in figure 4, there are many visual images i.e. 50-59, 40-46, etc.);

storing the first user's preferences and generating a profile of the first user according to the visual preferences of the first user (storing the buyer profile in the data base 4, see figure 1);

administering to a second user a second test via the Internet, (see figure 4 for seller);

generating a profile of the second user according to the results of the second test (storing the seller profile in the data base 4, see figure 1);

comparing the profile of the first user to the profile of the second user; and  
matching the first user with the second user according to visual preferences, whenever the profile of the first user matches the profile of the second user (see col. 4 lines 10-26)

*LUPIEN* fails to explicitly disclose presenting a set of at least two visual images or video to the first user and receiving the first user's preference based on the visual image or video.

*CHATER*, on the other hand, discloses providing visual images/ video images to the user in on-line dating communication system (see col. 1 lines 24-46).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made including the teaching of *CHATER* especially providing the video images in the user's terminal in the system taught by *LUPIEN* in order to provides potential user's i.e. employer or the opposite sex in on-line dating service with ability to better screen potential employee or mate.

Regarding claim 26, *LUPIEN* discloses the matching occurs with a partial match of the first and second's user's preferences (degree of mutual satisfaction, see col. 4 lines 17-26).



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Regarding claims 20-24, *LUPIEN-CHATER* fails to disclose that the notifying/contacting the first user via email or telephone.

However, it would have been obvious to one having ordinary skill in the art at the time of invention was made to notify the first user via e-mail or telephone (widely available and used) in order to provides information to the buyer/seller with whether the order has been executed.

### ***Response to Arguments***

Applicant's arguments filed 9/15/2008 have been fully considered but they are not persuasive.

In response to the applicant's argument in page 9, *CHATER* discloses the following in col. 1 lines 41-46:

The visual image is a still image in the preferred embodiment, and may for example be a video freeze-frame or other still extracted from the video recording. For example, it may be selected directly from a camera image projected on the terminal screen.

and, col. 2 lines 22-33:

According to the invention, there is provided an introduction system comprising a plurality of terminals, recording means for recording a visual image of an individual at said terminal and for storing said image in a store together with corresponding images from other said terminals, networking means for networking images from said store amongst terminals from which the images do not originate, selecting means enabling said individual to select an image from amongst those transmitted to his/her terminal, indicating means to indicate such selection to the terminal from which the selected image originated, and communication means controlled by the individual at the selected terminal enabling the individuals at the selecting and selected terminals to communicate with each other (emphasis added).

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In col. 1 lines 41-46, *CHATER* discloses the taking still images from a camera. The selected still images are store at a store together with corresponding still images from other terminals. *CHATER* further discloses that the networking means for forwarding images from the store amongst terminals from which the images do not originated. Then, the individual at the terminal selects an image from the plurality of images (see col. 2 lines 22-33). Therefore, *CHATER* discloses presenting at least two still images to the first and second users and each user selecting an image from the plurality of images.

In response to the applicant's argument in page 10, *LUPIEN* discloses a system for trading stocks over a WAN or Internet (see col. 3 lines 35-46, and figure 1). The system includes trader terminals 10, 12, 14, where each terminal includes a graphical user interface (GUI) that allows users to filed out a form to collect user's preferences such as type of transactions type, stock's symbol, quantity, prices rages, etc...(see figures 1 and 4). Once the necessary fields in the form are completed, the user submit the form and the system generate a profile based on the type of the transactions. The matching controller received the generated profiles from the seller and buyer and executes the order by matching the profiles (see abstract).

*CHATER* discloses presenting at least two still images to the first user and second user and each user selecting a preferred image. The selection is communicated to a controller (see abstract).

Therefore, the combination of *LUPIEN-CHATER* disclose the claimed invention.

**Conclusion**

Any response to this action should be mailed to:

The following address mail to be delivered by the United States Postal Service (USPS) only:

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The following address mail to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, Hand Delivery, etc.) as follow:

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Arlington, VA 22202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bob A. Phunkulh** whose telephone number is **(571) 272-3083**. The examiner can normally be reached on Monday-Tuesday from 8:00 A.M. to 5:00 P.M. (first week of the bi-week) and Monday-Friday (for second week of the bi-week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Jay Patel**, can be reach on **(571) 272-2988**. The fax phone number for this group is **(571) 273-8300**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Bob A. Phunkulh/  
Primary Examiner, Art Unit 2419